

REMARKS

This Amendment is submitted in response to the Office Action dated July 6, 2006, having a shortened statutory period set to expire October 6, 2006. Proposed amendments to the Claims include **canceling** Claim 24, **amending** Claims 1, 5, 9, 13, 17 and 21, and **adding** Claim 25. Upon entry of the proposed amendments, Claims 1-23 and 25 will now be pending.

OBJECTION TO THE SPECIFICATION

In paragraph 2 of the present Office Action, paragraph [0022] ([0024] of the published application) is objected to for typographical error of “describe” instead of “described.” Applicants appreciate the Examiner’s attention to detail, and have addressed this issue with the present amendment. Thus, Applicants now respectfully request that the amendment be entered and the objection removed.

CLAIM OBJECTIONS

In paragraph 3 of the present Office Action, Claims 3, 11 and 19 are objected to for not following the exact sequence of steps shown in **Figure 3**. As stated in originally filed paragraph [0027], “the invention has been particularly shown and described with reference to a preferred embodiment, it will be understood by those skilled in the art that various changes in form and detail may be made therein without departing from the spirit and scope of the invention.” That is, while the steps shown in **Figure 3** are exemplary, they are not intended to limit the invention to the exact “form and detail” depicted. Thus, Applicants respectfully traverse this objection, and request that it be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. § 101

In paragraph 5 of the present Office Action, the Examiner has rejected Claims 17-24 under 35 U.S.C. § 101. The presently submitted amendments utilize the Examiner's suggested language "computer storage medium," which should overcome this rejection.

DOUBLE PATENTING

In paragraph 7 of the present Office Action, Claims 1-3 and 6-14 are rejected by a provisional non-statutory double patenting rejection against copending Application No. 10/674,841. In paragraph 8 of the present Office Action, Claims 17-19 and 22-24 are similarly rejected by a provisional non-statutory double patenting rejection against copending Application No. 10/674,841. While Applicants respectfully traverse the rejection and the Examiner's contention that a "downloading" and "executing" are the same invention, in an effort to promote the presently pending claims to allowance, Applicant's undersigned representative is enclosing herein a terminal disclaimer that makes the rejection moot.

REJECTIONS UNDER 35 U.S.C. §§ 102 and 103

In paragraph 9 of the present Office Action, Claims 1, 6, 9, 14, 17 and 22 are rejected under 35 U.S.C. § 102 as being anticipated by *Kyotoku* (USPAPub 2003/0110011 – "*Kyotoku*"). In paragraph 12 of the present Office Action, Claims 2-3, 10-11 and 18-19 are rejected under 35 U.S.C. § 103 as being obvious over *Kyotoku*. In paragraph 13 of the present Office Action, Claims 4-5, 7-8, 12-13, 15-16, 20-21 and 23-24 are rejected under 35 U.S.C. § 103 as being obvious over *Kyotoku* in view of *Wall* (USPAPub 2002/0017977 – "*Wall*"). In light of the proposed amendments, Applicants respectfully traverse these rejections.

With regards to exemplary **Claim 1**, a combination of the cited art does not teach or suggest "executing the first software only if a Global Positioning System (GPS) receiver on the

client computer does not detect a GPS signal,” as supported in the present specification as originally filed at paragraph [0025], which states:

[0025] Alternatively, location service 208 may be structured such that the presence or lack of a GPS signal either enables or prohibits the loading of an application. Thus, an application may be constructed such that if the GPS receiver 122 does not detect a GPS signal, then it is presumed that the computer 410 is in a secure location, and the application may run. Alternatively, the application will run only with the detection of a GPS signal (or analogous enterprise-generated location signal).

The feature of permitting a software execution only if the computer detects no GPS signal is merited by a presumption that, if the computer cannot receive a GPS signal, then it must be in a secure (implicitly, RF shielded) location.

With regards to exemplary **Claim 2**, a combination of the cited art does not teach or suggest “executing the second software only if the physical location of the client computer is within the range of one of the authorized location ranges from the second list of authorized location ranges.” That is, if a first software is determined to be illegal for a geographical location, then a second software is examined and executed if it is determined to be legal. As stated in originally filed paragraph [0021] of the present application:

“If such an alternate program is available, then the alternate program is requested (block 318), and the alternate program determines if it is authorized to execute in the present physical location (back up to block 304). These steps continue and repeat until an alternative version of the application is eventually located that is authorized to execute in the computer's current physical location...”

Thus, as further claimed in new **Claim 25**, “in response to determining that the second software is not authorized to be executed by the computer at a current physical location of the

computer, evaluating subsequent alternate programs until an authorized program is located on the computer, and executing the authorized program on the computer.”

It is axiomatic that the cited art must teach or suggest every claimed element to sustain an obviousness rejection. The claimed feature of re-examining subsequent applications that (implicitly) do not have as stringent requirements as prior applications is not taught or suggested by the art. Rather, the Examiner simply states that it “would have been obvious to one of ordinary skill in the art at the time the invention was made to execute a second or any number of other programs if previous requests are rejected.” Examiner’s bare assertions of obviousness are not sufficient to establish a *prima facie* case of obviousness. Moreover, the Examiner may not “use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” In re Fritch, 23 U.S.P.Q. 2n 1780 (CAFC 1992). That is, without the present specification, there would be no teaching (nor suggestion) of the presently claimed limitations of subsequently examining less restrictive applications, and then allowing a subsequently identified application, which meets security requirements, to be executed by the computer.

With regards to exemplary **Claim 5**, a combination of the cited art does not teach or suggest “wherein the first software is an application, and wherein the disabling of the first software is performed by deleting the first software from the computer's system memory.” (Note that the feature of the “first software” being an “application” is supported in the originally filed paragraph [0020] of the present specification.) Paragraph [0032] of *Wall* is cited by the Examiner for teaching this feature. However, the cited passage states that “software Dynamic Link Libraries (“DLLs”) necessary for operation can be erased unless timely position (or location) data is input. The vendor can then be contacted via the Internet to reinstall the DLL for a limited time.” As well known to those skilled in the art, a DLL is a library of executable functions or data that can be used by a Windows application. That is, a DLL is not the application itself, but rather a resource that the application can use. Thus, *Wall* does not teach deleting the application itself at all, and particularly does not teach or suggest the specific act of removing the application from the “computer’s system memory.”

CONCLUSION

As the cited art does not teach or suggest all of the limitations presently claimed, Applicants now respectfully request a Notice of Allowance for all pending claims.

Applicant further respectfully requests the Examiner contact the undersigned attorney of record at 512.617.5533 if such would further or expedite the prosecution of the present Application.

No extension of time for this response is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time as well as any other fee necessary to further the prosecution of this application to **IBM CORPORATION DEPOSIT ACCOUNT No. 50-0563**.

Respectfully submitted,



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DLL

1) Short for *Dynamic Link Library*, a library of executable functions or data that can be used by a Windows application. Typically, a DLL provides one or more particular functions and a program accesses the functions by creating either a static or dynamic link to the DLL. A static link remains constant during program execution while a dynamic link is created by the program as needed. DLLs can also contain just data. DLL files usually end with the extension *.dll*, *.exe*, *.drv*, or *.fon*.

A DLL can be used by several applications at the same time. Some DLLs are provided with the Windows operating system and available for any Windows application. Other DLLs are written for a particular application and are loaded with the application.

2) Short for *Delay Locked Loop*, Delay-Locked Loop (DLL) supports high-bandwidth data rates between devices. These DLLs are circuits that provide zero propagation delay, low-clock skew between output clock signals throughout a device, and

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